



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

dePeyster Trust, Deborah dePeyster, Trustee/Map 61, Lot 2

September 3, 2014

Applicant: dePeyster Trust, Deborah dePeyster, Trustee
166 School Street
Concord, NH 03301

Location: 518 High Haith Road, Moultonborough, NH (Tax Map 61, Lot 2)

On September 3, 2014 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of dePeyster Trust, Deborah dePeyster, Trustee (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article VII (E), to allow for the expansion of an existing non-conforming dwelling within the existing building envelope on the parcel located in the Agricultural Residential (AR) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 518 High Haith Road (Tax Map 61, Lot 2).
- 2) dePeyster Trust is owner of record for the lot.
- 3) James Morris presented the application for the variance.
- 4) The lot is located in the Agricultural Residential (AR) Zoning District.
- 5) The side setback for the parcel is twenty (20) feet from the property line.
- 6) There is an existing dwelling located within the twenty (20) foot side setback with a square footage of approximately 546 square feet.
- 7) The Zoning Ordinance limits the footprint expansion to 20% of the gross habitable floor space or approximately 110 square feet.

- 8) On June 19, 2013, the Board granted a variance for the property for an expansion to be located entirely within the legal building envelope and not exceed a total of 600 square feet.
- 9) The proposed expansion (16 ft. x 20 ft. screened porch) will be located entirely within the legal building envelope and will not exceed a total of 320 square feet.
- 10) No members of the public spoke during the public hearing.
- 11) Granting the Variance would not be contrary to the public interest as there would be no detrimental impact to the public's welfare, safety or interest because the porch could be constructed as a very close stand-alone structure without the need for a variance.
- 12) Granting the Variance would be consistent with the spirit of the Ordinance because the expansion is planned to be located within the legal building envelope and could be constructed as a stand-alone structure without the need for relief from any provision of the zoning ordinance.
- 13) By granting the Variance, substantial justice would be done because the harm to the applicant would be great, while the gain to the public would be none because the intent of the pertinent section of the ordinance was not to curtail reasonable expansions of residential dwellings in a residential district, but to curtail nonconforming uses in incompatible zoning districts, and this is not the case for this application.
- 14) Granting the Variance would not diminish the value of surrounding properties as the new construction would increase the property value and it would be compatible with neighborhood construction.
- 15) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the lot size and location were pre-existing to zoning and the limiting of expansion of the nonconforming residential structure in a residential district is not the intent of the pertinent section of the zoning ordinance, thereby resulting in a hardship resulting from the ordinance itself.
- 16) On September 3, 2014 the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Crowe) and none (0) opposed, to grant the request for a variance and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision to Grant the Variance with the following condition; that the dwelling structure's footprint not be expanded beyond the 920 sq. ft. total that is allowed with the two granted variances.

The Board of Adjustment, on September 17, 2014, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Crowe), none (0) opposed.

The decision made to Approve the variance on September 3, 2014 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.

A handwritten signature in blue ink, appearing to read "Robert H. Stephens", is written over a horizontal line.

Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 9-19-2014